

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 18

August 10, 2000

SUBJECT: ACCEPTANCE OF SUMMONS AND COMPLAINT PROCEDURES-REVISED

PURPOSE: The Department Manual has existing procedures for the acceptance and processing of a Summons and Complaint for employees. A review of these procedures and recent changes in the law of Civil Procedure have revealed deficiencies that delay the delivery of a Summons, result in the inappropriate disclosure of confidential information regarding the employment status of Department employees, and in some cases, the loss of documents.

The Department also receives Summons and Complaints with multiple employees named as defendants which increases the potential for mishandling. Prompt attention to a Summons and Complaint ensures a coordinated response and provides adequate legal preparation for the involved Department employees. This Order revises our procedures regarding the Department's Summons and Complaint acceptance procedures.

PROCEDURE:

- I. OFFICER RESPONSIBILITY. Area and division desk officers or Department employees who are contacted by a process server, an attorney, a marshal or any person serving a Summons and Complaint to a Department employee shall immediately notify a supervisor.
- II. AREA/DIVISIONAL SUPERVISOR RESPONSIBILITY. When notified that a process server is present at a Department facility for the purpose of serving a Summons and Complaint to a Department employee, the supervisor shall meet with the process server and verify that the employee is currently assigned to the Area, division, section or unit.

Note: When the employee to be served is not assigned to the Area, the process server shall be advised where the employee is currently assigned. If requested, the server shall be provided the address and telephone number of the employee's current work location and directed to serve the employee at the location. In cases when an employee's work location cannot be determined, or the process server leaves a Summons and Complaint for an employee not assigned to the Area, the supervisor shall immediately forward an Employee's Report, Form 15.7 documenting the circumstances of the

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service and the document to the Civil Investigation Unit, Risk Management Division (RMD).

A. Employee On-Duty. When an employee to be served is on duty, the supervisor shall:

- * Ensure that the employee accepts the Summons and Complaint with minimal delay;
- * Record the Summons and Complaint on the Officer Subpoena Record, Form 15.29; and,
- * When the Summons and Complaint is a result of activities occurring during the employee's course and scope of City employment, direct the served employee to comply with Department Manual Sections 3/782.30, 3/784.40 and complete a Form 15.7. The supervisor shall advise the employee to hand carry the 15.7 and Summons and Complaint to the Civil Investigations Unit, RMD within two business days.

B. Employee Off-Duty. If the employee is off-duty, the supervisor shall inform the process server when and where the off-duty employee will be available to accept the Summons and Complaint. The process server shall only be told the expected date of return of the employee and shall not be informed of his/her current employment status or the circumstances regarding the employee's absence, or unavailability. **Under no circumstances shall an employee's home address or other personal information be given to the process server.**

When a process server insists on leaving the Summons and Complaint, the supervisor shall accept the documents. The supervisor may sign or initial a document that only acknowledges receipt. In those instances, they shall make a copy of the signed receipt and attach it to the Summons and Complaint.

Note: Acceptance of a Summons and Complaint by anyone other than the named employee is not considered "service" to an employee. The supervisor shall inform the process server that they are not the designated agent of the employee to accept service and shall not sign or initial any document stating they are the designated agent to accept service.

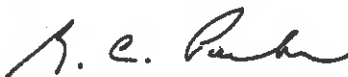
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A supervisor accepting a Summons and Complaint for an off-duty employee shall:

- * Request that the process server leave a complete Summons and Complaint for each employee for whom the person is attempting service and ensure that the process server has marked, highlighted or otherwise identified the individual employee on each Summons and Complaint;
- * Record it on the Officer Subpoena Record, Form 15.29;
- * Deliver the Summons and Complaint to the named employee as soon as practicable; and,
- * When the employee will not be available for acceptance of the Summons and Complaint within 5 days, and the lawsuit is a result of the employee's official duties, the supervisor shall complete an Employee's Report, Form 15.7, explaining the employee's absence and the circumstances of the attempted service. The 15.7 shall be hand delivered to the Civil Investigations Unit, RMD.

AMENDMENTS: This Order amends Sections 3/782.10 and 3/782.30 of the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Employee Relations Group, shall monitor compliance with this directive in accordance with Department Manual Section 0/080.30.



BERNARD C. PARKS
Chief of Police

DISTRIBUTION "A"